

SNOW ELIZA.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS,  
TRANSMITTING A COPY OF THE CONCLUSIONS OF LAW AND  
FACT IN THE FRENCH SPOILIATION CASES RELATING TO THE  
SNOW ELIZA AGAINST THE UNITED STATES.

FEBRUARY 1, 1902.—Referred to the Committee on Claims and ordered to be printed.

COURT OF CLAIMS,  
*Washington, D. C., January 31, 1902.*

SIR: Pursuant to the order of the Court of Claims, I transmit herewith the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings by the court relating to the vessel snow *Eliza*, Ephraim Perkins, master.

Respectfully,

JOHN RANDOLPH,  
*Assistant Clerk Court of Claims.*

HON. DAVID B. HENDERSON,  
*Speaker of the House of Representatives.*

[Court of Claims. French spoliation. Act of January 20, 1885; 23 Stat. L., p. 283. Vessel, snow or brigantine *Eliza*, Capt. Ephraim Perkins.]

No of claims.

Claimant.

4054. Theodore B. Moody, administrator of Joseph Moody, deceased.  
Walter L. Dane, administrator of Ephraim Perkins, deceased.  
2328. Stephen F. Fairfield, administrator of William Taylor, deceased.  
32. Robert Codman, administrator of William Gray, deceased.

PRELIMINARY STATEMENT.

These cases were tried before the Court of Claims on the 22d of May, 1901. The claimants were represented by George A. King, Edwin B. Smith, and Charles W. Clagett, esqs., and the United States, defendants, by the Attorney-General, through his assistants in the Department of Justice Charles W. Russell and John W. Trainor, esqs., with whom was Assistant Attorney-General Louis A. Pradt.

CONCLUSIONS OF FACT.

The court, upon the evidence and after hearing the arguments and considering the same with briefs of counsel on each side, determine the facts to be as follows:

I. The snow or brigantine *Eliza*, Ephraim Perkins, master, sailed on a commercial voyage from Kennebunk, Me., on the 19th day of May, 1799, bound for the island of Barbados, with a cargo consisting of lumber.

While peacefully pursuing her said voyage she was captured on the high seas by the French armed man-of-war *La Legere*, Captain Parandean, and taken into Guada-

loupe, where, on her arrival the 2d day of July, her master was imprisoned, after which, on July 19, he was put on board a Swedish sloop to go to the island of St. Bartholomew, but during the passage was seized by the English privateer *Lydia* and brought to the island of St. Christopher on July 23.

On July 19, 1799, the *Eliza* and her cargo were condemned by the tribunal of commerce and prizes at the island of Guadeloupe, on the ground that she had no rôle d'équipage or other proper papers, and was not satisfactorily proved to be a neutral vessel, whereby said vessel and cargo became a total loss to the owners.

II. The *Eliza* was an American vessel of 135 tons burden, and was owned one-fourth by Joseph Moody and three-fourths by Ephraim Perkins.

III. The cargo consisted of lumber and belonged to the owners of the vessel and in the same proportions.

IV. The owners of said vessel and cargo obtained from William Gray insurance on said vessel and cargo—\$4,000 upon the vessel and \$2,000 upon the cargo—for the respective proportions in which they owned the same, viz, Joseph Moody one-fourth, amounting to \$1,500, and Ephraim Perkins three-fourths, amounting to \$4,500, paying for the same a premium of 18 per cent, amounting to \$1,080—one-fourth, amounting to \$270, being paid by said Joseph Moody, and three-fourths, amounting to \$810, by said Ephraim Perkins. The said William Gray paid to the insured the full amount of \$6,000, in the proportions in which they were respectively insured, as and for a total loss.

V. The losses by reason of the capture, condemnation, and loss of the *Eliza* were as follows:

Value of vessel .....	\$3, 500
Value of cargo .....	2, 500
Freight earnings .....	2, 232
Premium of insurance .....	1, 080
Total .....	9, 312

VI. The losses of the several parties by reason of the capture, condemnation, and loss were as follows:

Joseph Moody:

One-fourth of vessel .....	\$875
One-fourth of cargo .....	625
One-fourth of freight .....	558
One-fourth premium of insurance .....	270

Total .....	2, 328
Less one-fourth insurance collected .....	1, 500

Total loss .....	828
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The claim of Ephraim Perkins was not filed until March, 1889.

William Gray:

Insurance paid .....	\$6, 000
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VII. The claimants have produced letters of administration on the estates of the respective parties who suffered the original losses, and have otherwise proved to the satisfaction of the court that the persons whose estates they represent were citizens of the United States and were the same persons who suffered losses by reason of the capture of the *Eliza*, and that they represent the next of kin of such persons respectively.

Said claims were not embraced in the convention between the United States and the Republic of France concluded on the 30th of April, 1803, and were not claims growing out of the acts of France, allowed and paid, in whole or in part, under the provisions of the treaty between the United States and Spain concluded on the 22d of February, 1819, and were not allowed, in whole or in part, under the provisions of the treaty between the United States and France of the 4th of July, 1831.

The claimants, in their representative capacity, are the owners of said claims, which have never been assigned, nor does it appear that any of said claims are owned by an insurance company.

#### CONCLUSIONS OF LAW.

The court decides, as conclusions of law, that said seizure and condemnation were illegal, and the owners had valid claims of indemnity therefor upon the French Republic prior to the ratification of the convention between the United States and

the French Republic concluded on the 30th day of September, 1800; that said claims were relinquished to France by the Government of the United States by said treaty in part consideration of the relinquishment of certain national claims of France against the United States, and that the claimants are entitled to the following sums from the United States:

- No. 4054. Theodore B. Moody, administrator of Joseph Moody, deceased,  
eight hundred and twenty-eight dollars..... \$828. 00  
Walter L. Dane, administrator of Ephraim Perkins, deceased; no  
allowance is made for the reason that the claim was not filed  
within the limitation of the statute.
32. Robert Codman, administrator of William Gray, deceased, six  
thousand dollars ..... 6, 000. 00
2328. Stephen F. Fairfield, administrator of William Taylor, deceased,  
has proved no valid claim.

BY THE COURT.

Filed December 2, 1901.

A true copy.

Test, this 31st day of January, A. D. 1902.

[SEAL.]

JOHN RANDOLPH,  
Assistant Clerk Court of Claims.

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